



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Lisa and Richard Goulet
361 Shore Road
Salem, NH 03079

Re: License CA2004064316

**NOTICE OF PROPOSED
LICENSE ACTION
No. 04-007**

September 8, 2004

I. INTRODUCTION

This Notice of Proposed License Action is issued by the Department of Environmental Services, Water Division ("DES") to Lisa and Richard Goulet, pursuant to RSA 541-A:30, RSA 485-A:35,I and RSA 485-A:36,I. DES is proposing to revoke construction approval CA2004064316, issued to Lisa and Richard Goulet, based on the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. PARTIES

1. The Department of Environmental Services, Water Division is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.
2. Lisa and Richard Goulet are individuals having a mailing address of 361 Shore Drive, Salem, NH 03079.

III. SUMMARY OF FACTS AND LAW SUPPORTING PROPOSED ACTION

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. On June 29, 2004, William Dickey (licensed septic designer #454) submitted an application for Individual Sewage Disposal System Approval ("the Application") to DES on behalf of Lisa and Richard Goulet.
3. DES issued subsurface sewage system construction approval CA2004064316 ("the Permit") to Lisa and Richard Goulet on July 22, 2004.
4. Env-Ws 1003.06 requires that the applicant include the subdivision approval number issued by DES when land is subdivided for septic location purposes.
5. In the Application, Mr. Dickey stated that the lot in question had been subdivided prior to 1967, the year that the New Hampshire Water Supply and Pollution Control Commission

received authority from the New Hampshire General Court to regulate the design and installation of individual septic systems.

6. The septic design plan Mr. Dickey submitted showed two adjoining lots, with the proposed septic system located on one lot, and an existing septic system located on the adjacent lot.
7. Subsequent investigation by DES has determined that only one lot exists on the site of the proposed system. The lot has not been subdivided, as alleged in the Application.
8. DES approval for the Application was based on the information provided by William Dickey.
9. If the lot in question had been subdivided after 1967, DES would not have approved the Application, as the proposed lot cannot meet the current DES lot loading requirements for individual septic systems.
10. Env-Ws 1004.19(b) authorizes DES to hold a hearing to allow an applicant to show cause why an approval based on false, incomplete or misleading information should not be revoked.
11. Env-Ws 1004.19(c) authorizes DES to revoke an approval that DES determines would not have been issued if true and complete information had been presented to it at the time of application for the approval.

IV. VIOLATIONS ALLEGED

1. William Dickey has violated RSA 485-A:29, II by failing to provide correct and accurate information to DES concerning the registry of deeds volume and page number for each lot that relates to a septic system application.
2. William Dickey has violated Env-Ws 1003.06(c) by failing to provide proper tax map and lot numbers for a lot proposed for construction of an individual septic system.
3. William Dickey has violated Env-Ws 1003.06(d) by failing to provide a proper subdivision approval number or a Subdivision Clarification Form for a lot not part of a state approved subdivision.

V. PROPOSED ACTION

1. Based on the violations identified in IV, above, DES proposes to revoke the Permit issued to Lisa and Richard Goulet.


VI. HEARING, RESPONSE, PROPOSED SETTLEMENT

Lisa and Richard Goulet have the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which the Goulets and any witnesses the Goulets may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If the Goulets wish to have a hearing, one will be scheduled promptly.

RSA 541-A:31, III(e) provides that Lisa and Richard Goulet have the right to have an attorney present to represent them at their expense.

Lisa and Richard Goulet may waive their right to a hearing. If the Goulets waive the hearing, DES is prepared to revoke the Permit. The Goulets should notify DES of their decision by filling out and returning the enclosed form by September 13, 2004.

Anyone having questions regarding this matter should contact Richard J. de Seve, Compliance Supervisor, at 271-3442


COPY
Harry T. Stewart, P.E., Director
DES Water Division

Enclosures: Correspondence dated August 11, 2004, from Jeffrey D. Marcoux

cc: Gretchen R. Hamel, Administrator, DES Legal Unit
Board of Selectmen, Town of Salem
Public Information Office, DES PIP Office
Richard J. de Seve, DES Water Division
William Dickey

***** RETURN THIS PAGE ONLY *****

**LISA AND RICHARD GOULET ARE REQUIRED BY LAW
TO RESPOND TO THIS NOTICE.
PLEASE RESPOND NO LATER THAN October 8, 2004**

APPEARANCE

_____ We desire a hearing in accordance with RSA 541-A:30 regarding the Permit.

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

_____ Date: _____
Signature

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

_____ Date: _____
Signature

WAIVER OF HEARING

_____ On behalf of Lisa and Richard Goulet, I/we certify that I/we understand our right to a hearing regarding the revocation of the Permit and that I/we hereby waive(s) those rights.

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

_____ Date: _____
Signature

**RETURN THIS PAGE ONLY TO:
Department of Environmental Services ~ Legal Unit
Attn: Michael Scalfani, Legal Assistant
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095**



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3501 FAX (603) 271-6683



August 11, 2004

RE: WN: 200405013, Lisa/richard Goulet, Map/Lot: 40 / 5298, Salem

Dick:

Jim suggested that I refer this file to you. The proposed septic system file was submitted on June 29, 2004, and reviewed by me. The plan shows two separate lots owned by Lisa and Richard Goulet, and the plan and application indicate that the lot was created prior to 1967.

Although the lots are small, the proposed system met loading requirements and a registered water supply agreement was provided. Although the situation is clearly not optimal, I approved the plan because it seemed like a reasonable solution to building on a relatively small pre-existing lot.

After the approval had gone through, I was contacted by an anonymous local citizen who informed me that the lot lines as shown do not exist, and the two lots shown are in fact one lot. I called the designer for clarification. Copies of the current deed were provided at this time, and are contained in the file. A telephone message left by the designer's wife, Jackie Dickey, indicated that the lot is in fact one lot, and the plan was done to get approval from the town of Salem to subdivide the lot.

This lot would also require NHDES Subdivision approval, and clearly would not meet the current requirements. My approval was based on the situation as presented on the plan. However, the plan does not accurately reflect the current lot configuration or NHDES Subdivision status of the lot.

Designer:
WILLIAM L DICKEY
PO BOX 205
NORTH SALEM NH 03073

Owners:
LISA/RICHARD GOULET
361 SHORE DR
SALEM NH 03079

Sincerely,


Jeffrey D. Mancoske